



## PLANNING COMMISSION STAFF REPORT

**TO:** Chair and Planning Commissioners  
**DATE:** April 23, 2019  
**FROM:** David Dowswell, Contract Planner *[Signature]*  
**SUBJECT:** Study Session – Discussion by the Winters Planning Commission for future regulations regarding vacation rentals in Winters

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**RECOMMENDATION:** Staff recommends the Planning Commission:

- 1) Receive a staff report regarding analysis and options for regulation of vacation rentals in Winters; and
- 2) Receive public comment on the proposed ordinance; and
- 3) Provide staff direction regarding the amendments to the proposed ordinance regulating of vacation rentals in Winters.

**BACKGROUND:** In 2008, a new market was created that allows homeowners to rent out a room or their whole house to strangers/customers for the night or a short period of time. This new market allows people to use their home as a makeshift hotel. Airbnb is one of the most recognizable companies in this new market. This new market was small and inconsequential to cities and local governments for the first few years, but over the last five or so years, vacation rentals have become a large business, spanning the entire globe.

In recent years, the success of Airbnb and other similar companies has caught the attention of cities and local governments. There are three main components when it comes to dealing with vacation rentals – taxation, regulation and public relations. Cities, small and large, have been receiving complaints from citizens who that vacation rentals are just a destination for partying. These complaints range from noise violations, parking on neighborhood streets, littering and lack of neighborhood cohesion. The concerns

about regulating vacation rentals range from, tax collection, registration for business licenses, code violations and proper zoning.

Currently, the City of Winters does not have any regulations or ordinances when it comes to vacation rentals. There are a number of vacation rental companies such as, Airbnb, Homeaway, HomeToGo and Vacation Rentals By Owners (VRBO). These Internet based companies allow people to rent out rooms in their house or their entire house. Guests rent out rooms and units for a short time – essentially using the property like a hotel. Presently, Winters has about 14 Airbnb rentals available, two of which are full houses for rent.

Other cities in Yolo County have few if any regulations when it comes to vacation rentals. Woodland currently has no regulations specific to vacation rentals in their code, other than a Transient Occupancy Tax (TOT) ordinance; Davis has an ordinance in their municipal-code to collect TOT, but no other regulations have been created. Lastly, West Sacramento has no regulations for vacation rentals.

On July 24, 2018 the planning commission held a workshop where they discussed the vacation rentals and the possibility of regulating them. After the discussion staff was directed to do further research and prepare an ordinance.

After the July 24 meeting the city attorney's office reached an agreement with Airbnb on the voluntary collection by Airbnb of the City's Transient Occupancy Tax (TOT) and the County's Tourism Business Improvement District (TBID) assessment.

On January 22, 2019 the planning commission held a study session where various issues were raised concerning vacation rentals and the drafting of an ordinance. The commission was given a copy of the City of Napa ordinance for discussion. Staff was given direction to incorporate a number of changes to the Napa ordinance in drafting a city ordinance.

On March 26, 2019 the planning commission held another study session where again the proposed vacation rental ordinance was discussed. Since the March meeting staff has further modified the ordinance in response to the direction/comments from the commission.

**ANALYSIS:** The City of Winters has no regulations regarding vacation rentals. In reviewing other city ordinances and listening to comments from the commission and the community at the previous study sessions staff identified the following key elements the City should consider:

- Defining various terms associated with vacation rentals.
- Requiring a vacation rental permit must meet specific regulations.
- Renewing of vacation rental permit annually.
- Distinguishing between non-hosted and hosted facilities.
- Limiting how many days one can rent out a room or the entire house and the

maximum number of persons who can stay in the vacation rental.

- Establishing a minimum number of days a vacation rental must be rented before needing a permit.
- Deciding who can issue a vacation rental permit, staff or the planning commission.
- Establishing a new fee for hosted facilities.
- Insurance requirements.

### **Definitions**

There are a number of new definitions which define what a vacation rental is and explain that it is different from a traditional hotel, motel, hostel, and bed and breakfast.

### **Requiring Vacation Rentals Meet Specific Regulations**

Section 17.54.030 of the proposed ordinance lists a number of specific requirements all hosted and non-hosted vacation rentals will need to meet. They include: all rooms being slept in must meet the building and fire codes, location of off-street parking, copy of the rental agreement, name and number of owner or authorized agent for a non-hosted facility and obtaining a business license. Failure to comply with all of the requirements at any time could result in the vacation rental permit being revoked.

### **Vacation Rental Annual Review**

Staff does not believe all permits should be subject to an annual review by the community development department or the planning commission because it would be too burdensome. Staff does, however, believe each facility should be subject to an annual building/fire inspection review. The proposed ordinance will have language allowing for a vacation rental permit to be subject to review by the community development department or the planning commission if it becomes a problem. Vacation rentals will have to renew their business license annually.

### **Hosted and Non-hosted Vacation Rentals and Limiting Their Numbers**

The proposed ordinance will not limit the numbers of vacation rentals (hosted and non-hosted) that can be allowed. The ordinance can always be amended in the future if the city wants to establish limits on each type of vacation rental. During the application process applicants will need to indicate if the vacation rental will be hosted or non-hosted.

### **Establishing Limits on How Many Days a Room or the Entire House Can be Rented and Maximum Number of Persons that Can Stay in a Vacation Rental.**

The City of Napa does not place a limit on how many days in a calendar year a vacation rental can be rented. The City of Sacramento allows a non-hosted facility to be rented a maximum of 90 days and a hosted facility to be rented a maximum of 6 months. The commission supported not having a maximum number of days a house could be rented out. The commission could limit the maximum number of days as part of a use permit for non-hosted facilities. The commission supported requiring compliance with the ordinance if a room or the entire house is rented one or more days in a calendar year.

At the March 26, 2019 meeting it was suggested, rather than limiting hosted facilities to renting of only two bedrooms with two people per bedroom, the ability to provide required parking would determine to how many guests that could stay at a hosted facility. A vacation rental would still need to comply with the City's business license regulations and pay the transient occupancy tax.

The City of Napa allows a maximum of 10 persons who can stay in a vacation rental. The City of Sacramento allows a maximum of 6 persons who can stay in a vacation rental. There is an existing vacation rental in the City called the "Farm Stay" that lists it has 9 bedrooms and can accommodate 16 plus persons. There is another house that has 7 beds. There are considerably more people who can be accommodated on this site for parties. The commission was split on whether should be a maximum number of persons allowable at a hosted or non-hosted. In the end a majority of the commission felt 10 persons should be the maximum.

The City of Napa prohibits vacation rentals to be used for weddings, auctions, commercial functions or other similar event that is inconsistent with the use of the property for transient occupancy in a residential neighborhood. Staff recommends a similar restriction be placed on vacation rentals.

**Deciding Who Can Issue a Rental Permit, Community Development Director (CDD) or Planning Commission or Both.**

Staff has updated the draft ordinance (Chapter 17.12.D.10) by adding language to allow for the zoning administrator to approve hosted vacation rental permits, subject to a simplified public hearing process. Non-hosted facilities will be required to obtain a use permit from the planning commission. Allowing zoning administrator to approve or deny a permit for hosted facilities would streamline the process. There are provisions in the City's Municipal Code where a decision of zoning administrator can be appealed to the planning commission and ultimately to the city council. The proposed ordinance will also allow the community development director to refer an application for a hosted facility to the planning commission if the vacation rental could adversely impact a neighborhood.

**Establishing a Fee for a Permit and a Use Permit.**

Staff will need to propose to the city council amending the City's fee schedule to determine what the fee should be for zoning administrator approval of a hosted facility. The fee for a use permit, which is part of the City's existing fee schedule, is \$1,820. Both fees are one-time fees.

**Insurance Requirements.**

Staff has made numerous attempts to contact Airbnb to find out if they require their hosts to provide proof of insurance before being a guest can stay at a facility listed with Airbnb. Airbnb has not yet contacted staff. Staff was able to find under the "Terms Specific for Hosts" on the Airbnb website the following language, "7.1.8 Airbnb

recommends that Hosts obtain appropriate insurance for their Host Services. Please review any respective insurance policy carefully, and in particular make sure that you are familiar with and understand any exclusions to, and any deductibles that may apply for, such insurance policy, including, but not limited to, whether or not your insurance policy will cover the actions or inactions of Guests (and the individuals the Guest has booked for, if applicable) while staying at your Accommodation or participating in your Experience, Event or other Host Service.”

**Calls for Service Requests Involving Existing Vacation Rentals**

At the March 26 meeting the commission requested a report from the police department regarding calls for service for the two known vacation rentals. Attached is an email from the police chief with that information.

**ATTACHMENTS:**

- A. Updated Draft of Vacation Rental Ordinance
- B. Email from police chief dated March 27, 2019



**Chapter 17.12**  
**PLANNING AGENCY**

**17.12.030 Powers and duties of the zoning administrator**

D. Projects Subject to Zoning Administrator Review.

1. Minor Modifications and Extensions of Time of Planned Developments.

- a. The zoning administrator may approve minor modifications of the detailed development plans or detailed development standards as well as time extensions in planned development (PD) overlay zones.
- b. Findings.

Such minor modifications may be approved only if consistent with required findings in Section 17.48.110. Time extensions may be approved if consistent with required findings in Section 17.48.100.

2. Home Occupations.

- a. Approval Authorized: The zoning administrator may approve applications for home occupations in residential (R) zones.
- b. Findings: A home occupation shall be approved only if it is found to comply with the provisions of this section and Section 17.60.080 of this title. No public hearing shall be required, although notice of the application shall be provided to all contiguous property owners.

3. Review and Approval of Projects Exempt from California Environmental Quality Act (CEQA).

- a. Approval Authorized. The zoning administrator may review and approve projects (other than ministerial projects) which are exempt from CEQA. However, the zoning administrator may refer projects involving substantial development, such as large additions to existing structures, to the planning commission for review and approval.

- b. Findings. Such projects shall be approved only if found to comply in all respects with the provisions of this title.
- 4. Lot Splits on Parcels Less than One-Half Acre in Size.
  - a. Approval Authorized. The zoning administrator may review and approve lot splits on parcels less than one-half acre in size.
  - b. Findings. Such lot splits shall be approved only if found to comply in all respects with provisions of this title, applicable criteria of the city's subdivision regulations, environmental law and the State Subdivision Map Act.
- 5. Use Permits and Variances.
  - a. Approval Authorized. The zoning administrator may approve use permit and variance applications for certain projects as specified elsewhere in this title.
  - b. Findings. Use permit and variance applications shall only be approved if found to comply with the provisions of this section and with the required findings for approval of use permit and variance applications specified in Chapters 17.20 and 17.24, respectively.
- 6. Temporary Activity Permits.
  - a. Approval Authorized. The zoning administrator may approve temporary activity permits for certain activities as specified in this title. The zoning administrator shall determine the appropriate level of noticing, if any, required for each application.
  - b. Findings. A temporary activity permit shall only be approved if found to comply in all respects with the provisions of this section and with the required findings in Chapter 17.32.
- 7. Exotic Animals.
  - a. Approval Authorized. The zoning administrator may approve a permit for the keeping of exotic animals. While no public hearing is required, notice of the application shall be provided to all contiguous property owners.

- b. Findings. The application may only be approved if the applicant can demonstrate that the keeping of such animal(s) will not create a general nuisance (such as excessive noise or odor) or pose a safety hazard to the general neighborhood, and that appropriate approvals from regulatory state and/or federal agencies are first obtained.
- 8. Expansion of Nonconforming Structures.
  - a. Approval Authorized. The zoning administrator may approve the expansion of nonconforming structures. While no public hearing is required, notice of the application shall be provided to all contiguous property owners.
  - b. Findings. The application may only be approved subject to compliance with this section and Chapter 17.104.
- 9. Sign Permit Review.
  - a. Approved Authorized. The zoning administrator may approve certain sign permits pursuant to Chapter 17.80.
  - b. Findings. The application may only be approved subject to compliance with this section and Section 17.80.080(D).
- 10. Vacation Rentals.
  - a. Approval Authorized. The zoning administrator may approve a permit for a "hosted accommodation" vacation rental. While no public hearing is required, notice of the application shall be provided to all property owners located within one hundred (100) feet of the proposed vacation rental.
  - b. Findings. The application may only be approved subject to compliance with this section and Chapter 17.54.

## **Chapter 17.54**

### **VACATION RENTALS**

#### **Sections:**

**17.54.010      Purpose and intent**

<b>17.54.020</b>	<b>Definitions</b>
<b>17.54.030</b>	<b>Requirements for an application</b>
<b>17.54.040</b>	<b>Permit requirements</b>
<b>17.54.050</b>	<b>Enforcement</b>

**17.54.010      Purpose and intent.**

The purpose of this chapter is to minimize the potential adverse impacts of transient occupancy uses in residential neighborhoods on traffic, noise and density, to ensure the health, safety and welfare of renters and guests patronizing vacation rentals, and to impose limitations on the total number and types of permits issued for vacation rentals in order to ensure the long term availability of housing stock in compliance with the Housing Element of the city of Winters General Plan.

**17.54.020.      Definitions.**

“Advertise” means any communication that induces or encourages any person to rent for transient occupancy purposes, or provides information (to any person) that promotes the availability to rent for transient occupancy purposes, any building in the city of Winters.

“Applicant” is as defined in Section 17.04.140 of this code.

“Authorized agent” means the person specifically authorized by an owner to represent and act on behalf of the owner and to act as an operator, manager and contact person of a non-hosted accommodation, and to provide and receive any notices identified in this section on behalf of the owner, applicant, permittee, or authorized agent.

“Bedroom” means any habitable room with no less than seventy (70) square feet of floor area and no dimension less than seven (7) feet in a dwelling other than bathroom(s), kitchen, living and dining room. Unless specifically designed to exclude its use as a bedroom (e.g., no closet, enlarged entry ways without doors, no windows open to the exterior, etc.), any den, study or other room meeting the above definition of a bedroom shall be considered a bedroom for the purpose of meeting the standards of the code.

“Community development community development director” as defined in Section 17.04 of this code.

“Enforcement officer” means the community development director, chief building official, fire marshal, city code enforcement officer, city department manager (to the extent responsible for enforcing provisions of this code), or any other city employee designated by the community development director or city manager to enforce this section.

“Guest” means an invitee of a renter or other person visiting a renter of a vacation rental unit who does not rent the unit.

“Hosted accommodation” means a vacation rental business for which the owner resides at the vacation rental unit, and the owner sleeps at the vacation rental unit while it is being rented, and no more than two (2) bedrooms are rented for transient occupancy pursuant to this section.

“Non-hosted accommodation” means a vacation rental business for which the authorized agent is not required to reside at the vacation rental unit which is rented for transient occupancy pursuant to this section.

“Owner” is as defined in Section 17.04.140 of this code.

“Permittee” means the person to whom a vacation rental permit is issued pursuant to this section. To the extent this section identifies requirements of a permit, or obligations of the permittee, the owner and any identified authorized agent shall be jointly and severally liable (see Chapter 1.16.).

“Renter” means a person, not an owner, renting or occupying a vacation rental unit in accordance with the terms of this section.

“Reside,” as used in this section, means the “domicile” of a person, as defined by California Elections Code Section 349, which generally means the place in which the person’s habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one (1) domicile.

“Transient occupancy” means any person’s use or possession, or right to use or possess, a building (or any portion thereof) for dwelling, lodging, or sleeping purposes, for a period of thirty (30) consecutive calendar days or less (counting portions of calendar days as full days).

“Vacation rental” means any transient occupancy use for which the city has issued a vacation rental permit pursuant to this section. The term “vacation rental” shall be used to include all vacation rental businesses, all hosted accommodation vacation rentals, and all non-hosted accommodation vacation rentals.

“Vacation rental permit” means a permit issued by the community development director or a use permit issued by the planning commission.

“Vacation rental unit” means the structure in which the vacation rental use is permitted to operate, pursuant to a permit issued in accordance with this section.

“Zoning administrator” means the office of the zoning administrator pursuant to Section 65900 of the Government Code of the state.

#### **17.54.030 Requirements for an application**

The community development director shall invite applications for vacation rental permits pursuant to this subsection

A. The community development director shall issue a written notice inviting applications for vacation rental permits in accordance with this section. Each written notice pursuant to this subsection shall be published in accordance with California Government Code Sections 6060 and 6061, and the community development director shall endeavor to use other reasonably available means of communications such as the city’s Internet website.

B. Each application for a vacation rental permit shall include the following information, signed by the owner and the authorized agent for non-hosted accommodations:

1. Identify the owner of the real property on which the vacation rental is proposed (include the name, mailing address, email address, and telephone number).
2. Identify whether the application is for a hosted or a non-hosted accommodation.
  - a. If the vacation rental is proposed as a hosted accommodation, provide adequate documentation that establishes the owner will reside at the vacation rental unit.
  - b. If the vacation rental is proposed as a non-hosted accommodation, identify the owner's authorized agent (include the name, mailing address, email address, and telephone number). An authorized agent must be identified for each non-hosted accommodation; however, the authorized agent may be the owner, or a person other than the owner.
3. Identify the number of bedrooms and approximate square footage in the vacation rental unit, and the maximum number of overnight renters under the limitations imposed under subsection 17.54.040(D). ~~For hosted accommodations, identify the location of each room to be rented as a vacation rental.~~
4. Document all designated bedrooms meet all current building and fire codes. An inspection by the City may be necessary to verify the bedrooms meet all current building and fire codes.
5. Identify the number and location of designated on-site parking spaces, and the maximum number of vehicles allowed for overnight occupants. ~~Each vacation rental must provide one (1) legal off-street parking space for each two (2) persons.~~
6. Acknowledge the owner and authorized agent for non-hosted accommodations has read all regulations pertaining to the operation of a vacation rental, including this section, the city's business license requirements (Chapter 5.04 of this code), the city's transient occupancy tax requirements (Chapter 3.24 of this code), and any additional administrative regulations as determined by the community development director necessary to implement this section.
7. Provide a copy of the rental agreement, rental rules and regulations and any associated materials as required by subsection 17.54.040(D).
8. Provide any other information as the community development director deems reasonably necessary to administer this section, as identified in the notice inviting applications.
9. Agree that any and all use of the property for vacation rental/transient occupancy purposes shall cease upon the revocation of the vacation rental permit pursuant to subsection 17.54.040(A).
10. Agree to hold harmless, indemnify and defend the city against claims and litigation arising from the issuance of the vacation rental permit.
11. Certify the accuracy of the information submitted and agree to comply with all conditions of the permit.

**Comment [DD1]:** Added this language to regulate the maximum number of people who can stay in a vacation rental. This language would be used to determine how many guests could stay at a facility. Comment DD2 discusses whether there should be a maximum number of guests.

C. The community development director shall evaluate permit applications, and process the applications for review by staff the zoning administrator pursuant to Section 17.12.030(D)10 or the planning commission pursuant to Chapter 17.20 of this code and subsection D. Each applicant shall provide the following supplemental submittal in a form acceptable to the community development director:

1. Payment of the application and processing fee established by city council resolution.
2. Public notice mailing labels for “non-hosted accommodation” (to notify neighboring property owners, pursuant to Section 17.16.040(C)).
3. Provide any other information as the community development director deems reasonably necessary to establish that the applicant will comply with all requirements of this section, as identified in the notice.

D. If the community development director determines an applicant has failed to satisfy the application requirements of subsection B or C of this section, the community development director shall provide written notice to the applicant of the determination.

E. If the community development director determines an applicant (hosted accommodation) has satisfied the application requirements of subsections B and C of this section, and the owner has borne the burden of proving the owner will adequately mitigate potential adverse impacts on the public health, safety, and welfare, the community development director shall schedule for a public hearing review by the zoning administrator pursuant to Section 17.12.030(D)10 ~~46.040~~ of this code. The community development director, at his or her discretion, could refer an application for a hosted facility to the planning commission. The notice shall identify the date and time on which ~~community development department~~ zoning administrator shall consider the permit application

F. If the community development director determines an applicant (non-hosted accommodation) has satisfied the application requirements of subsections B and C of this section, and the owner has borne the burden of proving the owner will adequately mitigate potential adverse impacts on the public health, safety, and welfare, the community development director shall schedule for a public hearing of the planning commission pursuant to Section 17.16.040 of this code. The notice shall identify the date and time the planning commission shall consider the use permit application.

G. Upon the decision of the ~~community development director~~ zoning administrator or the planning commission the community development director shall provide written notice to all property owners within one hundred (100) feet of a hosted accommodation and three hundred (300) feet of a non-hosted accommodation of the conditional approval of the vacation rental permit, to include:

1. A concise summary of the terms of the use vacation rental permit, including: (i) the maximum number of occupants permitted to stay in the vacation rental unit; (ii) the maximum number of vehicles which are allowed to be parked on the property; (iii) any special conditions or restrictions applied to the vacation rental permit; and (iv) how to obtain a complete copy of the use vacation rental permit and this section.

2. The name of the owner (for a hosted accommodation) and the authorized agent (for a non-hosted accommodation) of the vacation rental, and the telephone numbers at which the owner (for a hosted accommodation) and the authorized agent (for a non-hosted accommodation) may be reached at all times, twenty-four (24) hours per day.
3. The city of Winters Code Enforcement telephone number which members of the public may report violations of the vacation rental permit (including this section and any conditions of approval).
4. The right of an interested person to file an appeal within ten (10) calendar days of the vacation rental permit or use permit decision (pursuant to Chapter 17.16 of this code).

#### **17.54.040      Permit requirements**

Each vacation rental permit issued pursuant to this section shall be subject to all of the following requirements:

- A. Each vacation rental permit issued under the authority of this section may be subject to an annual review by the community development department or planning commission.
- B. The owner shall comply with all requirements of the Business License Ordinance (Chapter 5.04 of this code) and the Transient Occupancy Tax Ordinance (Chapter 3.20 of this code) for the vacation rental use.
- C. The owner shall comply with each of the requirements of this paragraph. The owner shall permit the enforcement officer to conduct an annual inspection of the vacation rental premises to confirm compliance with this section, and particularly including this paragraph.
  1. The property address shall be visible from the street and in contrasting colors for quick identification by emergency responders.
  2. Smoke detectors shall be installed per the California Building Code.
  3. No double keyed dead bolts may be installed on exit doors.
  4. A portable fire extinguisher shall be provided.
  5. Exit doors may not be obstructed and/or prohibited from fully opening.
  6. Clearance from ignition sources such as luminaries, heaters and flame-producing devices shall be maintained in an approved manner.
  7. Hot ashes or coals shall be disposed in a metal container with a tight-fitting lid and kept a minimum of ten (10) feet from the building.
  8. BBQs and open fires must be in an approved appliance or enclosure.
  9. No electrical wiring may be exposed or open in any outlet, switch or junction boxes.
  10. The electrical breaker box shall be labeled for distribution to appliances and may not contain any open slots.
  11. The garage firewall shall not have any penetrations in sheet rock.

12. An informational packet of emergency numbers shall be prepared for renters to direct them in the event of an emergency.

D. Each vacation rental permit will be subject to the house rules set forth in this paragraph. The permittee shall provide the community development director with a copy of the house rules prior to rental of the vacation rental unit, and shall promptly notify the community development director in writing identifying any changes to the house rules. Prior to each rental of a vacation rental unit, a copy of the house rules, the rental agreement, and the vacation rental permit shall be posted in a prominent location inside the vacation rental unit, including, at a minimum, the following:

1. As part of the application for rental, the prospective renter shall sign an agreement acknowledging the house rules and promising to comply with them.
2. The permittee shall limit overnight occupancy of the vacation rental to the specific number of renters designated in the permit, with the number of renters not to exceed two (2) persons per bedroom, plus two (2) additional persons per vacation rental unit. Each vacation rental must meet all current building and fire codes and shall comply with all applicable provisions and requirements of Title 17 of this code. **In no case may more than ten (10) persons be allowed to sleep at the vacation rental unit, this includes any property that has multiple habitable buildings.**
3. The permittee shall limit the number of vehicles of overnight renters to the maximum number of overnight renters designated in the permit, and shall require overnight renters to utilize designated on-site parking spaces to the maximum extent possible.
4. The permittee shall provide access to the garage of the residence if that area has been included in the determination of the number of available onsite spaces per this code.
5. The permittee shall provide appropriate refuse and recycling service for the vacation rental business. Property shall be free of debris both onsite and in the street. Trash cans shall be maintained in a clean and sanitary manner in conformance with Chapter 8.04 of this code. Trash cans shall not be placed on the street prior to twenty-four (24) hours before pick up day and shall be promptly removed from the street following service.
6. Quiet times shall be 9:00 p.m. to 7:00 a.m. Sunday through Thursday evenings and 10:00 p.m. to 7:00 a.m. Friday and Saturday evenings.
7. The permittee shall ensure the renters and/or guests of the vacation rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this code or any state law pertaining to noise or disorderly conduct; provided, however, that the city does not intend to authorize, and the city does not authorize, the permittee to act as a peace officer or place himself or herself in harm's way.
8. The permittee shall, upon notification that renters and/or guests of his or her vacation rental have violated any house rules (including any unreasonable

**Comment [DD2]:** Added this language to deal with the one property that has multiple buildings people can sleep in. Commission seemed divided as to whether to provide a cap on the maximum persons. Ten seemed to be the maximum number regardless as to the number of available bedrooms.

noise or disturbances, disorderly conduct, or violations of this code or state law) promptly act to stop the violation and prevent a recurrence of the violation.

9. Pools and hot tubs shall be adequately screened from adjacent properties to minimize noise impacts and shall have the hours of operation clearly posted adjacent to the facility. Hours shall comply with paragraph (7) of this subsection
10. It is prohibited to use the vacation rental unit for any wedding, auction, commercial function, or other similar event that is inconsistent with the use of the property for transient occupancy in a residential neighborhood.
11. Pets may be permitted by vacation rental business owner, however the pet must be attended to at all times and must have current vaccinations.

E. Each written advertisement (whether paper or electronic form) for a vacation rental shall include the "City of Winters Vacation Rental" permit number as part of the rental offering. No person shall advertise the use of a building in a residential or nonresidential zoning district of the city for a transient occupancy use unless: (a) the use is an approved hotel or bed and breakfast inn; or (b) the use is a vacation rental, which has been issued a vacation rental permit or a use permit pursuant to Chapter 17.20 of this code.

F. For each vacation rental use:

1. The owner (hosted accommodation) and the authorized agent (non-hosted accommodation) must be available by telephone at all times while the vacation rental is rented, twenty-four (24) hours per day.
2. The owner (hosted accommodation) and the authorized agent (non-hosted accommodation) must be on the premises of the vacation rental unit within one (1) hour of being notified (by a renter, or by the community development director or enforcement officer) there is a need for the owner (hosted accommodation) or the authorized agent (non-hosted accommodation) to address an issue of permit compliance or the health, safety, or welfare of the public or the renter.
3. Only one (1) rental agreement per vacation rental unit shall be in effect at any one time.
4. It is a violation of this section for any accessory dwelling unit (as defined by Chapter 17.98 of this code) to be used for transient occupancy purposes.

G. For each hosted accommodation:

1. The owner must sleep at the vacation rental unit while it is being rented.
2. The owner must reside and sleep in a bedroom not rented to any renter.
3. ~~No more than two (2) bedrooms may be rented for transient occupancy used.~~

H. Each vacation rental permit issued in accordance with this section shall be personal to the owner to whom the permit is issued (hereinafter "permitted owner"), and no person shall transfer, or attempt to transfer, the permit to any other person, unless the transfer is made in accordance with this subsection H. Any attempt to transfer a vacation rental permit, or use a transferred vacation rental permit, not

**Comment [DD3]:** Deleted this language limiting the number of bedrooms persons can stay in a hosted vacation rental and added the language in Section 17.54.030(B)5.

transferred in accordance with this subsection shall be void, and shall constitute a violation of this code.

I. A use permit is transferrable to a purchaser of the real property on which the permitted vacation rental unit is located, subject to the conditions of approval in the use permit and set forth in this paragraph. No purchaser shall operate a vacation rental use under the permitted owner's vacation rental permit until after the community development director has approved the transfer of the permit. The permitted owner shall submit to the community development director a written notice of intent to transfer the permit to the purchaser.

J. Each vacation rental permit issued pursuant to this section shall be subject to an annual building and fire inspection-, no later than one (1) year after the effective date of the permit or use permit.

1. The owner shall pay the annual inspection fee established by city council resolution. The owner shall document compliance with the requirements of subsection 17.54.040 (C) of this section.

2. The owner shall document compliance with all requirements of the Business License Ordinance (Chapter 5.04 of this code).

3. The owner shall document compliance with all requirements of the Transient Occupancy Tax Ordinance (Chapter 3.24 of this code). The owner shall also document each date on which the vacation rental was rented during the previous term of the permit.

4. The owner shall document that written notice was provided to property owners within three hundred (300) feet of the vacation rental unit, with the information required by subsection 17.54.030(G).

K. Following an annual permit review (pursuant to subsection J of this section):

1. If the community development director determines the permittee is in compliance with all requirements of this section and the permit, the community development director shall provide written notice to the permittee.

2. If the community development director determines the permittee has failed to comply with this section or the permit, the community development director shall notice a public hearing of the planning commission pursuant to Section 17.20.050 of this code.

3. Upon revocation of any vacation rental permit, it shall be of no further force, validity or effect, and use of the property for transient occupancy purposes shall cease.

L. At any time during the term of a vacation rental permit, the community development director is authorized to initiate proceedings to revoke or modify the permit (or pursue any other remedy set forth in Title 1 of this code), if the community development director determines in his or her discretion: (1) a vacation rental use is detrimental to the public health, safety, or welfare; (2) the permittee has provided materially false or misleading information in any submittal required under this section; or (3) the permittee is in violation of, or has failed to comply with, any requirements of this section or the permit.

1. Pursue any of the remedies set forth in Chapter 17.40 of this code; including, but not limited to notice a public hearing of the planning commission to consider a revocation of the use permit pursuant to Section 17.20.050 of this code.
2. Pursue any of the remedies set forth in Chapter 1.16 of this code, including, but not limited to, issuance of an administrative citation in accordance with Chapter 1.24 of this code and subsection 17.54.050.

#### **17.54.050      Enforcement**

It is a violation of this code, subject to enforcement pursuant to Chapter 1.16 of this code, for any person to establish or operate a transient occupancy use in any residential or nonresidential zoning district unless: (1) the use is in compliance with a hotel use in a nonresidential zoning district approved by the city pursuant to Title 17; or (2) the use is in compliance with a vacation rental permit pursuant to this section; or (3) the use is in compliance with a use permit for a bed and breakfast inn pursuant to Chapter 17.20 of this code. Notwithstanding the limitations of Chapter 1.16 of this code, the amount of the fine imposed for each violation of this section shall be:

1. ~~\$500.00 for a first violation;~~
2. ~~\$750.00 for a second violation of the same code section within twelve (12) months; and~~
3. ~~\$1,000.00 for each day of each additional violation of the same code section within twelve (12) months.~~

~~Any determination made by the city pursuant to this section shall be final unless appealed pursuant to the requirements of this subsection.~~

1. Any determination by the planning commission to: approve, conditionally approve, or deny a use permit application (pursuant to Chapter 17.20 of this code and subsection 17.54.030(D), to transfer a permit to a purchaser (pursuant to subsection 17.54.030(H) of this section), or to modify or revoke a use permit (pursuant to Section 17.20.050 of this code) may be appealed only in accordance with the requirements of Chapter 17.16 of this code.
2. Any enforcement action taken by the community development director or the enforcement officer may be appealed only by requesting an administrative hearing in accordance with the requirements of Section 17.16.060 of this code.
3. Failure to timely appeal in the manner required by Section 17.16.060 of this code shall constitute a waiver of the appeal and a failure to exhaust administrative remedies, and shall preclude any and all relief and claims arising in connection with the determination by the city pursuant to this subsection.

**Comment [DD4]:** Is this section needed? If yes do we simply need to reference Chapter 1.16 or include all of the language?

## Dave Dowswell

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**From:** John Miller  
**Sent:** Wednesday, March 27, 2019 10:02 AM  
**To:** Matthew Keys  
**Cc:** Dave Dowswell  
**Subject:** RE: EXTERNAL MAIL: Express inquiry re: Police calls-of-service to AirBNB/short-term rental homes

Matthew,

Here was the calls for service "raw" data requested and provided to Dave Dowswell for the Planning Commission reference specific addresses he identified as "vacation rentals." You'll have to contact him (cc'd on this email) for specifics on the Planning Commission meeting and if this data was used.

726 Lupine Wy  
2/25/18 Noise Complaint Incident Number 18027011

955 County Road 89 is not a valid address since 955 Railroad Ave (Railroad Ave is County Road 89 outside the city limits) is an Apartment Complex

Possible corrected address of 820 Railroad Ave  
03/31/18 Party Disturbance Incident Number 18042518  
09/14/18 Party Disturbance Incident Number 18123810  
10/13/18 Noise Complaint- Animal Control Incident Number 18137584

Chief John P. Miller  
Winters Police Department  
702 Main St.  
Winters, CA 95694  
530-795-2261  
[john.miller@winterspolice.org](mailto:john.miller@winterspolice.org)

**From:** Matthew Keys [<mailto:matthew@wintersexpress.com>]  
**Sent:** Tuesday, March 26, 2019 9:48 PM  
**To:** John Miller  
**Cc:** John Donlevy; Dave Dowswell  
**Subject:** EXTERNAL MAIL: Express inquiry re: Police calls-of-service to AirBNB/short-term rental homes

Chief Miller,

I understand the Winters Police Department recently provided data on calls-to-service at AirBNBs and other short-term vacation rentals within the city's limits as part of the City's deliberations on a proposed ordinance regulating such businesses.

We've asked city officials for the data before, but haven't seen it so far. At tonight's planning commission meeting, it was said the Police Department has provided the data to city officials upon their request. Would it be possible to receive the same data from your agency?

**ATTACHMENT B**